

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JUDY THOMAS,

Plaintiff,

-against-

JONES DAY,

Defendant.

Case No.: 21-cv-10245

ORAL ARGUMENT REQUESTED

**JONES DAY’S MOTION TO DISMISS FOR
LACK OF SERVICE**

Pursuant to Federal Rule of Civil Procedure 12(b)(5), Defendant Jones Day (“Jones Day”) hereby moves to dismiss the Complaint filed against it by Plaintiff Judy Thomas (“Plaintiff”) for lack of service. As explained more fully in the accompanying Memorandum of Law in Support, dismissal pursuant to Rule 12(b)(5) is warranted because it is undisputed that Plaintiff did not serve Jones Day when her action was pending in state court, and did not serve Jones Day after her case was removed to this Court on February 12, 2021. First, Federal Rule of Civil Procedure 4(m) and controlling First Circuit law require dismissal of Plaintiff’s case because Plaintiff did not serve Jones Day by May 13, 2021 – Rule 4(m)’s 90-day service deadline. Second, District of Massachusetts Local Rule 4.1(b) mandates “automatic” dismissal of Plaintiff’s case because Plaintiff failed to serve Jones Day by Rule 4(m)’s 90-day service deadline, and subsequently did not move to enlarge service time within 14 days of such deadline.

Accordingly, for the reasons set forth in the accompanying Memorandum of Law in Support, Jones Day respectfully requests that its Motion be granted, and that the Court dismiss all claims against it for lack of service pursuant to Rule 12(b)(5).

Respectfully submitted,

JONES DAY,

Dated: September 7, 2021
Boston, Massachusetts

By its counsel,
/s/ Kate Wallace

Jones Day
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Attorneys for Defendant Jones Day

RULE 7.1(A)(2) CERTIFICATION

I certify that I conferred with counsel for Plaintiff, Suzie Herold, who did not assent to the relief sought in this Motion.

/s/ Kate Wallace
Kate Wallace

CERTIFICATE OF SERVICE

I hereby certify that on September 7, 2021, I electronically filed the foregoing document using the Court's CM/ECF system.

Dated: September 7, 2021
Boston, Massachusetts

By: /s/ Kate Wallace
Kate Wallace